

CONFERENCE COMMITTEE REPORT DIGEST FOR SB 47

Citations Affected: IC 11-12-6; IC 35-38-2.6-1; IC 35-38-3-3.

Synopsis: Community corrections/misdemeanants. Conference committee report for ESB 47. Establishes a county misdemeanor fund in each county. Provides a formula for the distribution of money to each county for deposit in the county misdemeanor fund. Repeals provisions requiring: (1) the department of correction to pay a per diem to counties for certain misdemeanants confined in a county jail; (2) a county legislative body to establish a county corrections fund; and (3) a county legislative body to make an election concerning the level of funding that the county will receive from the state for local correctional facilities. Provides that the law concerning direct placement in community corrections programs applies to the sentencing of a person convicted of a misdemeanor whenever any part of the person's sentence may not be suspended. Makes other related changes. Makes technical corrections. (This conference committee report does the following: (1) Establishes a county misdemeanor fund in each county and provides a formula for the distribution of money to each county. (2) Adds the above-described repealers. (3) Removes a provision that would have allowed offenders who have at least three unrelated convictions for operating a motor vehicle while intoxicated to be eligible for direct placement into community corrections programs.)

Effective: Upon passage; July 1, 1999.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 47 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 11-12-6-2 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this
- 5 chapter, "county ~~corrections~~ **misdemeanant** fund" refers to a fund
- 6 established under section 6 of this chapter.
- 7 SECTION 2. IC 11-12-6-3.5 IS ADDED TO THE INDIANA CODE
- 8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 1999]: **Sec. 3.5. As used in this chapter, "minimum allocation**
- 10 **amount" refers to the amount of funding that applies to a county**
- 11 **under section 11.1(a) of this chapter.**
- 12 SECTION 3. IC 11-12-6-4.5 IS ADDED TO THE INDIANA CODE
- 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 14 1, 1999]: **Sec. 4.5. As used in this chapter, "multiplier" refers to the**
- 15 **number that applies to a county under section 11.1(b) of this**
- 16 **chapter.**
- 17 SECTION 4. IC 11-12-6-6 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. A county legislative
- 19 body ~~may adopt an ordinance to elect to~~ **shall** receive deposits made
- 20 under section 13 of this chapter and ~~to~~ establish a county ~~corrections~~
- 21 **misdemeanant** fund. The county fiscal body shall administer the
- 22 county ~~corrections~~ **misdemeanant** fund. The fund consists of deposits
- 23 made by the department under section 13 of this chapter.
- 24 SECTION 5. IC 11-12-6-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. A county ~~corrections~~ **misdemeanant** fund ~~may~~ **shall** be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities **or community based programs**. Any money remaining in a county ~~corrections~~ **misdemeanant** fund at the end of the year does not revert to any other fund, but remains in the county ~~corrections~~ **misdemeanant** fund.

SECTION 6. IC 11-12-6-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.1. (a) The minimum allocation amount under this chapter, which represents the dollar amount each county was entitled to receive under level 3 funding in state fiscal year 1998, is as follows:**

Adams County	14,000
Allen County	129,500
Bartholomew County	35,000
Benton County	3,500
Blackford County	14,000
Boone County	14,000
Brown County	3,500
Carroll County	7,000
Cass County	17,500
Clark County	49,000
Clay County	7,000
Clinton County	17,500
Crawford County	3,500
Daviess County	7,000
Dearborn County	35,000
Decatur County	24,500
Dekalb County	24,500
Delaware County	35,000
Dubois County	45,500
Elkhart County	52,500
Fayette County	10,500
Floyd County	21,000
Fountain County	7,000
Franklin County	7,000
Fulton County	14,000
Gibson County	24,500
Grant County	28,000
Greene County	17,500
Hamilton County	28,000
Hancock County	10,500
Harrison County	24,500
Hendricks County	24,500
Henry County	17,500
Howard County	66,500
Huntington County	10,500
Jackson County	45,500
Jasper County	14,000
Jay County	7,000

1	Jefferson County	21,000
2	Jennings County	10,500
3	Johnson County	31,500
4	Knox County	14,000
5	Kosciusko County	42,000
6	LaGrange County	7,000
7	Lake County	234,500
8	LaPorte County	35,000
9	Lawrence County	52,500
10	Madison County	101,500
11	Marion County	294,000
12	Marshall County	35,000
13	Martin County	3,500
14	Miami County	24,500
15	Monroe County	35,000
16	Montgomery County	24,500
17	Morgan County	31,500
18	Newton County	7,000
19	Noble County	28,000
20	Ohio County	3,500
21	Orange County	7,000
22	Owen County	7,000
23	Parke County	7,000
24	Perry County	14,000
25	Pike County	10,500
26	Porter County	42,000
27	Posey County	14,000
28	Pulaski County	10,500
29	Putnam County	14,000
30	Randolph County	10,500
31	Ripley County	17,500
32	Rush County	7,000
33	St. Joseph County	112,000
34	Scott County	31,500
35	Shelby County	17,500
36	Spencer County	10,500
37	Starke County	10,500
38	Steuben County	14,000
39	Sullivan County	7,000
40	Switzerland County	7,000
41	Tippecanoe County	56,000
42	Tipton County	3,500
43	Union County	3,500
44	Vanderburgh County	161,000
45	Vermillion County	14,000
46	Vigo County	42,000
47	Wabash County	21,000
48	Warren County	7,000
49	Warrick County	21,000
50	Washington County	31,500
51	Wayne County	38,500

1	Wells County	10,500
2	White County	14,000
3	Whitley County	17,500
4	(b) The multiplier under this chapter for each county, which	
5	represents each county's approximate proportion of the total state	
6	population, is as follows:	
7	Adams County	.0057
8	Allen County	.0548
9	Bartholomew County	.0114
10	Benton County	.0017
11	Blackford County	.0024
12	Boone County	.0070
13	Brown County	.0026
14	Carroll County	.0033
15	Cass County	.0068
16	Clark County	.0155
17	Clay County	.0044
18	Clinton County	.0055
19	Crawford County	.0018
20	Daviess County	.0049
21	Dearborn County	.0072
22	Decatur County	.0042
23	Dekalb County	.0064
24	Delaware County	.0213
25	Dubois County	.0067
26	Elkhart County	.0291
27	Fayette County	.0046
28	Floyd County	.0117
29	Fountain County	.0031
30	Franklin County	.0036
31	Fulton County	.0034
32	Gibson County	.0056
33	Grant County	.0129
34	Greene County	.0054
35	Hamilton County	.0214
36	Hancock County	.0083
37	Harrison County	.0055
38	Hendricks County	.0139
39	Henry County	.0084
40	Howard County	.0143
41	Huntington County	.0063
42	Jackson County	.0068
43	Jasper County	.0045
44	Jay County	.0038
45	Jefferson County	.0053
46	Jennings County	.0043
47	Johnson County	.0163
48	Knox County	.0070
49	Kosciusko County	.0121
50	LaGrange County	.0056
51	Lake County	.0835

1	LaPorte County	.0191
2	Lawrence County	.0076
3	Madison County	.0229
4	Marion County	.1465
5	Marshall County	.0077
6	Martin County	.0018
7	Miami County	.0056
8	Monroe County	.0203
9	Montgomery County	.0061
10	Morgan County	.0103
11	Newton County	.0024
12	Noble County	.0070
13	Ohio County	.0010
14	Orange County	.0033
15	Owen County	.0032
16	Parke County	.0027
17	Perry County	.0034
18	Pike County	.0022
19	Porter County	.0233
20	Posey County	.0046
21	Pulaski County	.0022
22	Putnam County	.0055
23	Randolph County	.0047
24	Ripley County	.0044
25	Rush County	.0032
26	St. Joseph County	.0447
27	Scott County	.0038
28	Shelby County	.0072
29	Spencer County	.0035
30	Starke County	.0041
31	Steuben County	.0050
32	Sullivan County	.0034
33	Switzerland County	.0014
34	Tippecanoe County	.0241
35	Tipton County	.0028
36	Union County	.0012
37	Vanderburgh County	.0292
38	Vermillion County	.0029
39	Vigo County	.0186
40	Wabash County	.0061
41	Warren County	.0014
42	Warrick County	.0082
43	Washington County	.0043
44	Wayne County	.0126
45	Wells County	.0047
46	White County	.0041
47	Whitley County	.0050

48 SECTION 7. IC 11-12-6-13 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Before ~~June 30~~
50 **September 1** of each year after ~~1986~~, **1998**, the department shall
51 deposit in the ~~corrections~~ **misdemeanant** fund of a ~~each~~ county ~~that~~

has complied with section 12 of this chapter and that has adopted an ordinance to receive deposits under section 6 of this chapter:

(1) if the county has elected to receive level 1 funding; two thousand dollars (\$2,000) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter; or

(2) if the county has elected to receive level 2 funding; two thousand seven hundred dollars (\$2,700) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter:

(b) Before June 30 of each year after 1986, the department shall deposit in the county corrections fund the amount described in subsection (a)(1) if:

(1) the county elects to receive level 2 funding; and the county fails to comply with section 12(a)(2) of this chapter during the twelve (12) month period described in section 10 of this chapter; and

(2) the county complies with section 12(a)(1) of this chapter during the twelve (12) month period described in section 10 of this chapter:

(c) If a county elects to receive level 3 funding; before August 1 of each year, the department shall deposit three thousand five hundred dollars (\$3,500) times the county's base integer: the greatest of the following:

(1) The sum determined by multiplying the total amount appropriated for the county misdemeanor fund by the county's multiplier.

(2) The minimum allocation amount assigned to the county under section 11.1(a) of this chapter.

(3) After state fiscal year 1999, the amount deposited by the department in the misdemeanor fund for the county in state fiscal year 1999.

SECTION 8. IC 11-12-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) Notwithstanding section 13 of this chapter, the department shall deposit funds in county ~~corrections~~ **misdemeanant** funds under this section if the funds appropriated to the department for county ~~corrections~~ **misdemeanant** funds are insufficient to meet the amounts required to be deposited under section 13 of this chapter.

(b) The department shall make deposits until the funds described in subsection (a) are exhausted and shall make the deposits in the following order:

(1) To the county corrections fund of counties electing to receive level 3 funding in the same order as the ordinances were filed with the secretary of state under section 9 of this chapter.

(2) After all of the deposits have been made under subdivision (1); then to county corrections funds of counties electing to receive level 2 funding; prorated in accordance with the ratio the amount due to a county corrections fund bears to the total amount

due all counties that elect to receive level 2 funding:

(3) After all deposits have been made under subdivisions (1) and (2); then deposits to counties electing to receive level 1 funding in accordance with the ratio the amount due to the corrections fund of a county electing to receive level 1 funding bears to the amount due to the corrections fund of all counties electing to receive level 1 funding:

(c) (b) Before July 16 of each year, the commissioner shall send a notice to each county legislative body that has filed an ordinance under section 9 of this chapter: **executive and sheriff**. The notice must contain the following:

(1) The amount of money appropriated for all county **corrections misdemeanor** funds in Indiana.

(2) The amount that will be deposited in the county **corrections misdemeanor** funds. for counties electing to receive level 3 funding under section 13 of this chapter:

(3) The balance of the appropriated amount that is available for deposits to county corrections funds for counties electing to receive level 1 and level 2 funding:

(d) (c) The notice required under subsection (c) **subsection (b)** must be in the following form:

Notice Concerning County **Corrections Misdemeanant** Funds

The amount appropriated

for July 1 . . . to June 30 . . .

for county **corrections misdemeanor**

funds is \$

The amount obligated for

level 3 funding for county

corrections funds is \$: : : :

The amount available for

level 2 and level 1 county

corrections funds is \$: : : :

The amount your county

misdemeanant fund will

receive is \$".

Page 1, line 14, delete ", **except a**" and insert ".".

Page 1, delete line 15.

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 10. IC 35-38-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as provided by subsections (b) and (c); **subsection (b)**, a person convicted of a misdemeanor may not be committed to the department of correction. if there are fewer than sixty (60) days remaining before his earliest possible release date. However, if the commissioner of the department of correction gives notice to a sheriff that he will pay a per diem under IC 11-8-3-3, then a person may not be committed to the department of correction unless there are more than one hundred eighty (180) days remaining before his earliest possible release date:

(b) If the inmate population of a local facility is equal to or in excess of its rated capacity, a person convicted of a misdemeanor who has more than sixty (60) but fewer than one hundred eighty (180) days

1 remaining before his earliest possible release date may be committed
 2 to the department of correction. However, before a sheriff transfers the
 3 custody of a person under this subsection, the sheriff shall give notice
 4 to the department that the inmate population of the local facility is
 5 equal to or in excess of its rated capacity.

6 (c) If the county executive decides that the county should not house
 7 persons convicted of misdemeanors who have more than sixty (60)
 8 days remaining before their earliest possible release dates, then those
 9 persons may be committed to the department of correction. However,
 10 notice of the county executive's decision must be transmitted to the
 11 commissioner of the department of correction not more than ten (10)
 12 days after the sheriff has received notice under subsection (a):

13 (b) Upon a request from the sheriff, the commissioner may
 14 agree to accept custody of a misdemeanant:

15 (1) if placement in the county jail:

16 (A) places the inmate in danger of serious bodily injury or
 17 death; or

18 (B) represents a substantial threat to the safety of others;

19 (2) for other good cause shown; or

20 (3) if a person has more than five hundred forty-seven (547)
 21 days remaining before the person's earliest release date as a
 22 result of consecutive misdemeanor sentences.

23 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE
 24 JULY 1, 1999]: IC 11-8-3-3; IC 11-12-6-1; IC 11-12-6-3; IC 11-12-6-4;
 25 IC 11-12-6-5; IC 11-12-6-8; IC 11-12-6-9; IC 11-12-6-10;
 26 IC 11-12-6-11; IC 11-12-6-12."

27 Renumber all SECTIONS consecutively.

(Reference is to ESB 47 as printed March 26, 1999.)

Conference Committee Report
on
Senate Bill 47

Signed by:

Senator Meeks R

Representative Villalpando

Senator Alexa

Representative Ayres

Senate Conferees

House Conferees